

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

WALSH SECURITIES, INC.,

Plaintiff,

v.

CRISTO PROPERTY MANAGEMENT, LTD., a/k/a
G.J.L. LIMITED; DEK HOMES OF NEW JERSEY, INC.;
OAKWOOD PROPERTIES, INC.; NATIONAL HOME
FUNDING, INC.; CAPITAL ASSETS PROPERTY
MANAGEMENT & INVESTMENT CO., INC.; CAPITAL
ASSETS PROPERTY MANAGEMENT, LLC; WILLIAM
KANE; GARY GRIESER; ROBERT SKOWRENSKI, II;
RICHARD CALANNI; RICHARD DiBENEDETTO;
JAMES R. BROWN; THOMAS BRODO; ROLAND
PIERSON; STANLEY YACKER, ESQ.; MICHAEL
ALFIERI, ESQ.; RICHARD PEPSNY, ESQ.; ANTHONY
M. CICALESE, ESQ.; LAWRENCE CUZZI; ANTHONY
D'APOLITO; DAP CONSULTING, INC.;
COMMONWEALTH LAND TITLE INSURANCE CO.;
NATIONS TITLE INSURANCE OF NEW YORK, INC.;
FIDELITY NATIONAL TITLE INSURANCE CO. OF
NEW YORK; COASTAL TITLE AGENCY; STEWART
TITLE GUARANTY COMPANY; IRENE DiFEO;
DONNA PEPSNY; WEICHERT REALTORS; and
VECCHIO REALTY, INC., d/b/a MURPHY REALTY
BETTER HOMES AND GARDENS,

Defendants.

:
:
: Judge Dickinson R. Debevoise
: Magistrate Judge Michael A. Shipp
:

: Civ. A. No. 97-3496

: Motion Return Date:
: **October 4, 2010**

**BRIEF OF NATIONS TITLE INSURANCE OF NEW
YORK, INC. AND FIDELITY NATIONAL TITLE INSURANCE CO.
OF NEW YORK IN OPPOSITION TO THE MOTION TO DISMISS
OF ROBERT SKOWRENSKI, II AND NATIONAL HOME FUNDING, INC.**

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Defendants/cross-claim plaintiffs, Nations Title Insurance of New York, Inc. and Fidelity National Title Insurance Co. (collectively, “**Fidelity**”), by and through their undersigned counsel, Fox Rothschild LLP, respectfully submit this brief in opposition to the motion of defendants/cross-claim defendants, Robert Skowrenski, II (“**Skowrenski**”) and National Home Funding, Inc. (“**NHF**”) (collectively, the “**NHF Defendants**”), to dismiss Fidelity’s cross-claims.

I. BRIEF FACTUAL BACKGROUND

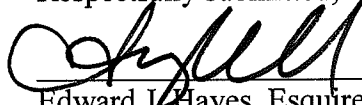
In its Fourth Amended Complaint, Plaintiff, Walsh Securities, Inc. (“**Walsh**”), asserts claims against National Home Funding for RICO violations, fraud and breach of contract. See Fourth Amended Complaint, [Doc. No. 302], Counts I, II, III and IV. Walsh also asserts claims against Skowrenski, the owner of NHF, for RICO violations and fraud. Id. at Counts I, II and III.

Walsh alleges that the NHF Defendants were directly involved in a fraudulent scheme because NHF sold mortgage loans to Walsh, which were based on loan applications that contained falsely inflated appraisals and other false information. In connection with these mortgage loans, Coastal Title Agency (a co-defendant in this case), on behalf of Fidelity, issued closing service protection letters to NHF. As a result, Fidelity entered into a contractual relationship with NHF. At no time did NHF or Skowrenski disclose to Fidelity the allegedly fraudulent nature of the transactions for which it sought the issuance of the letters. Because NHF induced Fidelity to issue policies and the closing service protection letters (on which Walsh bases its claims in this action), Fidelity asserted cross-claims against NHF and Skowrenski for contribution and indemnification. See Answer to Fourth Amended Complaint and Cross Claim, [Doc. No. 314]. The NHF Defendants now ask the Court to dismiss these cross-claims.

II. LEGAL ARGUMENT

In response to NHF's motion to dismiss Fidelity's cross-claim, Fidelity relies on its brief in opposition to the motion of third-party defendants, Robert Walsh, James Walsh and Elizabeth DeMola, to dismiss Fidelity's third-party complaint. See Docket No. 341. Although Fidelity recognizes that the Court's Order dated December 16, 2009 rejected these arguments, Fidelity respectfully disagrees with the Court's failure to apply Fidelity's arguments to the claims against Robert Walsh, James Walsh and Elizabeth DeMola and submits this response in order to preserve its right to appeal the Court's decision. It is Fidelity's position that the cross-claims against NHF and Skowrenski are proper.

Respectfully submitted,



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Dated: September 20, 2010

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of foregoing brief of Fidelity National Title Insurance Co. of New York and Nations Title Insurance Co. of New York in opposition to the motion to dismiss cross-claims filed by Coastal Title Agency was electronically filed this day and served this day by first-class mail, postage pre-paid, as follows:

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